

## REMARKS

It is noted that the Office Action mailed on September 8, 2006 includes numerous factual errors as to the status of the claims, inconsistencies regarding claim rejections, and other errors. These inconsistencies and errors make substantive response to the Office Action difficult. Applicant's undersigned attorney telephoned the Examiner to discuss these errors on March 5, 2007. While the Examiner acknowledged that the Office Action includes numerous errors and inconsistencies, she explained that due to the late date it would not be possible to address the errors. The Examiner therefore recommended that the Applicant's attorney proceed with substantive response as was best possible, and that the errors and inconsistencies be formally noted. Accordingly, the following remarks are provided. It is believed that all claims are allowable in their present form.

### SEPTEMBER 8 OFFICE ACTION ERRORS AND INCONSISTENCIES

The Office Action mailed on September 8 includes numerous errors and inconsistencies summarized as follows:

1. Errors and Inconsistencies in Office Action Summary Sheet - "Disposition of Claims":
  - a) Claim 35 is pending but has not been indicated to be. Clarification is requested.
  - b) Claim 21 has been shown both as "rejected" and "objected to." The Detailed Action likewise rejects this claim (without any discussion) but also indicates it is "objected to" and would be allowable if rewritten. Clarification is requested.
  - c) What is status of claim 8? It is not shown as rejected or objected to, not dealt with in the Detailed Action. Clarification is requested.
  - d) What is status of claim 25? It is not shown as rejected or objected to, not dealt with in the Detailed Action. Clarification is requested.
  - e) What is status of claim 31? It is not shown as rejected or objected to, not dealt with in the Detailed Action. Clarification is requested.
  - f) Claim 26 is "objected to" – but it has already been cancelled. Clarification is requested.

- g) Claims 33 and 35 have been “objected to” – but they are already in independent form. Clarification is requested.

2. Detailed Action Errors and Inconsistencies:

- h) Paras. 1-3 reject claim 1 as anticipated – but claim 1 is not pending – it has already been cancelled (as acknowledged on Summary Sheet). Clarification is requested.
- i) Para. 4 also rejects claim 1. Clarification is requested.
- j) Para. 4 rejects claims 18, 20 and 28 as anticipated by a single reference. These claims all depend from independent claims that have not been rejected as anticipated by that reference, however. Clarification is requested.
- k) Para. 9 rejects multiple claims as obvious over a single reference (Liebmann). But para. 11 in discussing this rejection appears to introduce a second reference (Schulpin) – it is assumed that the obviousness rejection of para. 9 was supposed to be in view of the second reference (Schulpin). Clarification is requested.
- l) Para. 9 rejects independent claims 32 and 34 as obvious - but there is no discussion provided of what references are alleged to teach their required elements (only claims 2, 3, 6 and 8 are discussed). Clarification is requested.
- m) Para. 9 likewise rejects claims 18, 20, 27, and 21 without any discussion (only claims 2, 3, 6 and 8 are discussed). Clarification is requested.
- n) Para. 12 indicates claims 9-12, 15, 17, 21, 26, 33 and 35 are objected to as depending from a rejected base claim but that they would be allowable if rewritten in independent form. But:
- Claims 33 and 35 are *already in independent form*.
  - Claims 9-12 and 17 depend from independent claim 33 (which is assumed allowable).
  - Claim 15 depends from independent claim 35 (which is assumed allowable).
  - Claim 26 has already been cancelled.

As discussed above, the number and significance of apparent errors and inconsistencies in the Office Action makes substantive response difficult. Based on the Examiner’s recommendation, however, Applicant is proceeding to provide response as is best possible in light of the above detailed errors in the Office Action.

### **INDEPENDENT CLAIMS 29-31, 33 AND 35 ARE ALLOWABLE**

Currently, seven independent claims are pending: claims 29-35. The Office Action has indicated claims 29 and 30 are allowed. As noted above, claim 31 has not been rejected or otherwise addressed in the Office Action. Because it has not been rejected, this claim is assumed to be allowed. Also as noted above, claims 33 and 35 have been objected to as depending from a rejected base claim but otherwise allowable. Because these claims are already independent, however, it is assumed they are likewise allowable.

### **CLAIMS 32 AND 34 ARE ALLOWABLE**

The Office Action has rejected claims 32 and 34 as obvious over U.S. Patent 5,367,808 to Liebmann ("Liebmann"). As noted above, it is believed that this rejection may have also intended to cite U.S. Patent 4,041,657 to Schulpin ("Schulpin"). Clarification is requested. Assuming that this rejection was over Liebmann in view of Schulpin, it is submitted that these references in combination fail to disclose or suggest the limitations of the claims, and therefore that the rejections are improper and must be withdrawn.

Claim 32 requires, among other elements, that the rotating shaft engage the *bottom wall* of a graphics display. Liebmann, which as best understood has been cited to disclose this required element, instead teaches engaging a *top portion* of the sign. Liebmann, Figure 1. One considering Liebmann would therefore not be led to the claimed configuration, but instead would be encouraged to practice the configuration taught by Liebmann of connecting the top of the sign to the rotating shaft. Claim 32 is therefore allowable, as are all claims depending therefrom.

### **CLAIM 34 IS ALLOWABLE**

Claim 34 requires, among other elements, that the graphics display have an upper perimeter width that is greater than the length of the mounting cross member. As best understood, Liebmann has been cited as disclosing or suggesting this required

element. It is submitted, however, that Liebmann discloses a sign 21 with an upper perimeter that is narrower than the mounting bracket 12. See, Figure 1. Accordingly, Liebmann fails to disclose or suggest the limitations of claim 34 and it is allowable.

#### **CLAIMS 2, 3, 6, 18, 20, 21 AND 27 ARE ALLOWABLE**

Claims 2, 3 and 21 depend from claim 34 and are allowable for the same reasons that claim are. Claims 6, 18 and 20 depend from claim 32 and are allowable for the same reasons as are that claim. Claim 27 that is subject to this rejection depends from claim 31 which has not been rejected and is therefore assumed to be allowable. Claim 27 is therefore allowable.

#### **OBJECTED TO CLAIMS**

Numerous claims have been objected to but indicated to be allowable. Due to the errors and inconsistencies in the Office Action noted above, however, it is believed that several of these claims are already in allowable form. Claims 33 and 35, for example, are already in independent form. Also, some objected to claims depend from claims that have not been rejected (with an example being claim 5 which depends from claim 31). Other claims depend from rejected claims 32 or 34, which are believed allowable for the reasons discussed above. Objection to these claims is therefore moot. Applicant reserves the right to present objected to claims in independent form in a subsequent submission.

In conclusion, it is believed that all claims in their current form are allowable. The Examiner is invited to contact the undersigned attorney by phone should any matters remain for attention before a Notice of Allowance can be issued.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By

A handwritten signature in black ink, appearing to read 'Tom R. Fitzsimons', written over a horizontal line.

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